

## Amendments to the Claims

Please cancel claims 1 - 27 and add new claims 28 - 35.

### **Listing of the Claims:**

Claims 1 - 27 (CANCELED)

28. (NEW) An apparatus for placement on a heart of a patient to treat a heart condition characterized at least in part by diastolic expansion of a size of the heart, the apparatus comprising:

a flexible and compliant, biomedical material formed in a jacket having an internal volume and an opening exposing said internal volume;

said jacket sized for jacket to be placed over said heart with an apex of said heart passed through said opening and with at least a ventricular portion of said heart received within said volume, said jacket further sized to present a resistance to diastolic expansion;

said material of said jacket including at least a shape-memory material.

29. (NEW) An apparatus according to claim 28 wherein said material is elastic.

30. (NEW) An apparatus according to claim 28 wherein said jacket is sized to constrain diastolic expansion beyond a predetermined limit.

31. (NEW) An apparatus according to claim 28 wherein said material is formed in an open cell construction with a plurality of open cells defined by interconnected, elongated elements.

32. (NEW) An apparatus according to claim 28 wherein said jacket is sized to be applied to the epicardium of the heart.

33. (NEW) An apparatus according to claim 28 wherein said jacket is sized to be applied to the pericardium of the heart.

34. (NEW) An apparatus according to claim 28 wherein said shape memory material is disposed at least circumferentially around a base of said jacket.

35. (NEW) An apparatus according to claim 28 wherein said shape memory material is disposed to reduce a size of said jacket following placement.